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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,278	04/21/2004	Michael R. Johnson	251505US96DIV	5429

22850 7590 10/13/2006

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EXAMINER

TUCKER, ZACHARY C

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/828,278	Applicant(s) JOHNSON, MICHAEL R.	
	Examiner Zachary C. Tucker	Art Unit 1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 82-169 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 82-169 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Requirement for Restriction

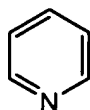
Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 82-152 and 157-169, drawn to methods of effecting various therapeutic results, in a subject, comprising administering to the subject a compound represented by formula (I), wherein in the formula (I), the variable “Q”-containing ring is a phenyl ring:



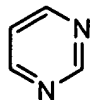
No “Q” is a nitrogen atom, that is. These methods are classified in class/subclass 514/255.06.

- II. Claims 82-122, 124-127, 131-140, 153-156 and 165-169, drawn to methods of effecting various therapeutic results, in a subject, comprising administering to the subject a compound represented by formula (I), wherein in the formula (I), the variable “Q”-containing ring is a pyridine ring:



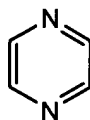
One “Q” is a nitrogen, that is. These methods are classified in class/subclass 514/255.05.

- III. Claims 82-121, 124-126, 131-140 and 165-169, drawn to methods of effecting various therapeutic results, in a subject, comprising administering to the subject a compound represented by formula (I), wherein in the formula (I), the variable “Q”-containing ring is a 1, 3-diazine ring (pyrimidine):



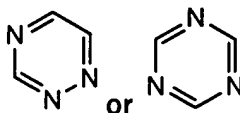
The "Q" at the 1- and 3-positions are nitrogen atoms, that is. These methods are classified in class/subclass 514/255.05.

- IV. Claims 82-121, 124-126, 131-140 and 165-169, drawn to methods of effecting various therapeutic results, in a subject, comprising administering to the subject a compound represented by formula (I), wherein in the formula (I), the variable "Q"-containing ring is a 1, 4-diazine ring (pyrazine):



The "Q" at the 1- and 4-positions are nitrogen atoms, that is. These methods are classified in class/subclass 514/252.11.

- V. Claims 82-121, 124, 131-140 and 165-169, drawn to methods of effecting various therapeutic results, in a subject, comprising administering to the subject a compound represented by formula (I), wherein in the formula (I), the variable "Q"-containing ring is a triazine ring, either 1,2,4-triazine or 1,3,5-triazine:



The "Q" at the 1, 2 and 4-positions or 1, 3 and 5-positions are nitrogen atoms, that is. These methods are classified in class/subclass 514/241 and 242.

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The inventions are independent or distinct, each from the other because:

Each of the Groups set forth above is drawn to a method wherein compounds employed as the therapeutic agent are patentably distinct from one another. The "Q"-containing ring in each is a chemically different heterocycle (or carbocycle in the case of phenyl) from the others.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of an invention to be examined even though the requirement be traversed (37 CFR 1.143).

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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Conclusion

Any inquiry concerning this communication should be directed to Zachary Tucker whose telephone number is (571) 272-0677. The examiner can normally be reached Monday to Friday from 5:45am to 2:15pm. If Attempts to reach the examiner are unsuccessful, contact the examiner's supervisor, James O. Wilson, at (571) 272-0661.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

zt

A handwritten signature in black ink, appearing to read 'Zachary Tucker', with a long horizontal flourish extending to the right.